

REMARKS

Claims 1-15 are pending in the application. Claims 5, 10 and 15 have been withdrawn.

Claims 1-4, 6-9, and 11-14 have been rejected, and are pending.

The undersigned notes that his registration number is 39,093; the summary of the provisional election by telephone in the Office Action lists an incorrect registration number.

RESTRICTION

During a telephone conversation with the Examiner on April 27, 2006, Applicant made a provisional election with traverse to prosecute Claims 1-4, 6-9, and 11-14. Applicant affirms this election, subject to traversal.

The Examiner's restriction is improper under MPEP 806.05(d). In a "subcombination usable together" restriction, the Examiner is required to show, by way of example, that one of the subcombinations has utility other than in the disclosed combination.. The Examiner has made no such showing. Instead, the Examiner merely recites the language of claims 1 and 5, without any analysis whatsoever, and without giving any example of another utility.

Claims 1 and 5 are both drawn to methods for storing test results in a database. Claims 6 and 10 are both drawn to data processing systems having at least a processor and accessible memory. Claims 11 and 15 are both drawn to computer program products tangibly embodied in a machine-readable medium.

As the Examiner has shown no separate utility, the restriction is improper and should be withdrawn. Full examination of all claim 1-15 is respectfully requested.

CLAIM REJECTIONS -- 35 U.S.C. §101

Claims 1-15 were rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. This rejection is traversed.

The sole justification given by the Examiner for this rejection is a piecemeal analysis of one sequence of steps that the Examiner alleges would produce no tangible result. In particular, the Examiner alleges that because some test results are discarded, the claimed process has no tangible result. The Examiner's analysis is flawed.

As clearly stated in MPEP 2106, "[o]ffice personnel must treat each claim as a whole" (emphasis added). This principle is followed in *In re Iwahashi*, 888 F.2d 1370, 1374-75, 12 USPQ2d 1908, 1911-12 (Fed. Cir. 1989), cited with approval in *Alappat*, 33 F.3d at 1544 n.24, 31 USPQ2d at 1558 n.24." (emphasis added). As the Examiner's analysis does not consider the results of the claimed process as a whole, the rejection is improper.

Claim 1, taken as a whole, describes a method for storing test results in a database, which is clearly a tangible result and practical application. This process has an additional advantage in that test results having the same test identifiers and test result identifiers as a previous test need not be stored, so that the results database is smaller than if a conventional process of storing every result were followed. In this way, the very step of not storing certain results has both a tangible result and a practical advantage over other methods. Such advantages are described, for example, in paragraphs 0045-0053 of the specification as filed.

Claims 6 and 11 produce similar tangible results and have similar practical application. The rejection of independent claims 1, 6, and 11, and their dependent claims 2-4, 7-9, and 12-

14, are traversed. Independent claims 5, 10, and 15 have similar tangible results and similar practical application, and so are similarly statutory subject matter.

The Examiner makes the statement that “The claim does not provide a tangible result for all possible results from the comparison step.” This statement is incorrect, as described above, but also is not a requirement for patentability. The Examiner is cordially requested to cite any statutory or common-law basis for this novel “all possible results” test.

CONCLUSION

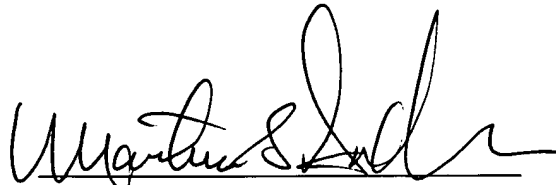
As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *manderson@munckbutrus.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

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